

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JEFFREY D. LEISER,

Plaintiff,

ORDER

v.

BELINDA SCHRUBBE, R.N., DR. CHARLES LARSON, M.D., DR. DEBBE LEMKE, M.D., DR. PAUL SUMNICKT, M.D., MARK JENSEN, R.N., SANDY JACKSON, R.N., and TONIA ROZMARYNOSKI,

11-cv-254-slc

Defendants.

In an order entered on September 26, 2011, I dismissed defendant Donald VanderGalien from this case without prejudice, concluding that the United States Marshals Service had made a reasonable effort to serve this defendant with the summons and complaint but was unsuccessful. Now, plaintiff has responded to that order, asking the court to direct the Marshals Service to try again. Plaintiff indicates in his motion that Assistant Attorney General Ann Peacock should have access to VanderGalien's address or that defendant VanderGalien can be found by contacting his sons, who currently work for the Wisconsin Department of Corrections.

As the court already has noted, reasonable efforts do not require the marshal to be a private investigator for civil litigants or to use software available only to law enforcement officers to discover addresses for defendants whose whereabouts are not discoverable through public records. As the marshal explained on the unexecuted return form, a reasonable effort was made to serve defendant VanderGalien. The marshals service went to the defendant's last known address, provided by the Department of Corrections and the house was vacant and for sale. The marshal then made additional efforts by contacting the Postmaster and searching the internet for another address, only to be unsuccessful in locating defendant VanderGalien. The United

States Marshals Service fulfilled its obligation under *Sellers v. United States*, 902 F.2d 598, 602 (7th Cir. 1990). The court's dismissal order stands.

I note that the dismissal of defendant VanderGalien is without prejudice. Plaintiff is free to file a new lawsuit against defendant VanderGalien at a later time .

ORDER

IT IS ORDERED that plaintiff Jeffrey Leiser's motion for reconsideration, dkt. #27, is DENIED.

Entered this 21st day of October, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge